

**TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING  
REJECTION OVER A PRIOR PATENT**

Docket Number (Optional)

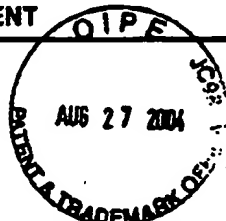
301-396

In re Application of: Sainton et. al.

Application No.: 09/670,696

Filed: September 28, 2000

For: ADAPTIVE OMNI-MODAL RADIO APPARATUS AND METHODS



**RECEIVED**

SEP 02 2004

Technology Center 2600

The owner\*, MLR, LLC, of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. 6,134,453. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record.

*Charles M. Leedom, Jr.* 8-26-04  
Signature Date

Charles M. Leedom, Jr.

Typed or printed name

703 241 0165

Telephone Number

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) included.

**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

\*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).  
Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

11/26/2004 TROBERTS 00000002 09670696

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

FEE TRANSMITTAL		Complete If Known																																																																																																																																																																																																																																																					
<p><i>Patent fees are subject to annual revision on October 1. These are the fees effective October 1, 1997. Small Entity payments must be supported by a small entity statement, otherwise large entity fees must be paid. See Forms PTO/SB/09-12.</i></p>		Application Number																																																																																																																																																																																																																																																					
		Filing Date																																																																																																																																																																																																																																																					
		First Named Inventor		Joseph B. Sainton																																																																																																																																																																																																																																																			
		Examiner Name																																																																																																																																																																																																																																																					
		Group Art Unit																																																																																																																																																																																																																																																					
TOTAL AMOUNT OF PAYMENT		\$744.00		Attorney Docket Number 0301-396																																																																																																																																																																																																																																																			
METHOD OF PAYMENT (check one)		FEE CALCULATION (continued)																																																																																																																																																																																																																																																					
<p>1. <input checked="" type="checkbox"/> The Commissioner is hereby authorized to charge indicated fees and credit any over payments to: Deposit Account No. 19-2380 Deposit Account Name: NIXON PEABODY LLP</p> <p><input checked="" type="checkbox"/> Charge Any Additional Fee Required Under 37 CFR 1.16 and 1.17 <input type="checkbox"/> Charge the Issue Fee Set in 37 CFR 1.18 at the Mailing of the Notice of Allowance</p> <p>2. <input checked="" type="checkbox"/> Payment Enclosed: <input checked="" type="checkbox"/> Check <input type="checkbox"/> Money Order <input type="checkbox"/> Other</p>		3. ADDITIONAL FEES																																																																																																																																																																																																																																																					
		Large Entity      Small Entity																																																																																																																																																																																																																																																					
<p style="text-align: center;">FEE CALCULATION</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="2">Large Entity</th> <th colspan="2">Small Entity</th> <th rowspan="2">Fee Description</th> <th rowspan="2">Fee Paid</th> </tr> <tr> <th>Fee Code</th> <th>Fee (\$)</th> <th>Fee Code</th> <th>Fee (\$)</th> </tr> </thead> <tbody> <tr> <td>101</td> <td>690</td> <td>201</td> <td>345</td> <td>Utility filing fee</td> <td>[690]</td> </tr> <tr> <td>106</td> <td>310</td> <td>206</td> <td>155</td> <td>Design filing fee</td> <td>[ ]</td> </tr> <tr> <td>107</td> <td>480</td> <td>207</td> <td>240</td> <td>Plant filing fee</td> <td>[ ]</td> </tr> <tr> <td>108</td> <td>690</td> <td>208</td> <td>345</td> <td>Reissue filing fee</td> <td>[ ]</td> </tr> <tr> <td>114</td> <td>150</td> <td>214</td> <td>75</td> <td>Provisional filing fee</td> <td>[ ]</td> </tr> <tr> <td colspan="4" style="text-align: right;">SUBTOTAL (1)</td> <td></td> <td>\$690.00</td> </tr> </tbody> </table>		Large Entity		Small Entity		Fee Description	Fee Paid	Fee Code	Fee (\$)	Fee Code	Fee (\$)	101	690	201	345	Utility filing fee	[690]	106	310	206	155	Design filing fee	[ ]	107	480	207	240	Plant filing fee	[ ]	108	690	208	345	Reissue filing fee	[ ]	114	150	214	75	Provisional filing fee	[ ]	SUBTOTAL (1)					\$690.00	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="2">Large Entity</th> <th colspan="2">Small Entity</th> <th rowspan="2">Fee Description</th> <th rowspan="2">Fee Paid</th> </tr> <tr> <th>Fee Code</th> <th>Fee (\$)</th> <th>Fee Code</th> <th>Fee (\$)</th> </tr> </thead> <tbody> <tr> <td>105</td> <td>130</td> <td>205</td> <td>65</td> <td>Surcharge-late filing fee or oath</td> <td></td> </tr> <tr> <td>127</td> <td>50</td> <td>227</td> <td>25</td> <td>Surcharge-late provisional filing fee or cover sheet</td> <td></td> </tr> <tr> <td>139</td> <td>130</td> <td>139</td> <td>130</td> <td>Non-English specification</td> <td></td> </tr> <tr> <td>147</td> <td>2,520</td> <td>147</td> <td>2,520</td> <td>For filing a request for reexamination</td> <td></td> </tr> <tr> <td>112</td> <td>920*</td> <td>112</td> <td>920*</td> <td>Requesting publication of SIR prior to Examiner action</td> <td></td> </tr> <tr> <td>113</td> <td>1,840*</td> <td>113</td> <td>1,840*</td> <td>Requesting publication of SIR after Examiner action</td> <td></td> </tr> <tr> <td>115</td> <td>110</td> <td>215</td> <td>55</td> <td>Ext for reply within first month</td> <td></td> </tr> <tr> <td>116</td> <td>380</td> <td>216</td> <td>190</td> <td>Ext for reply within second mth</td> <td></td> </tr> <tr> <td>117</td> <td>870</td> <td>217</td> <td>435</td> <td>Ext for reply within third mth</td> <td></td> </tr> <tr> <td>118</td> <td>1,360</td> <td>218</td> <td>680</td> <td>Ext for reply within fourth mth</td> <td></td> </tr> <tr> <td>128</td> <td>1,850</td> <td>228</td> <td>925</td> <td>Ext for reply within fifth month</td> <td></td> </tr> <tr> <td>119</td> <td>300</td> <td>219</td> <td>150</td> <td>Notice of Appeal</td> <td></td> </tr> <tr> <td>120</td> <td>300</td> <td>220</td> <td>150</td> <td>Filing brief in support of appeal</td> <td></td> </tr> <tr> <td>121</td> <td>260</td> <td>221</td> <td>130</td> <td>Request for Oral Hearing</td> <td></td> </tr> <tr> <td>138</td> <td>1,510</td> <td>138</td> <td>1,510</td> <td>Petition to institute public use proceeding</td> <td></td> </tr> <tr> <td>140</td> <td>110</td> <td>240</td> <td>55</td> <td>Petition to revive-unavoidable</td> <td></td> </tr> <tr> <td>141</td> <td>1,210</td> <td>241</td> <td>605</td> <td>Petition to revive-unintentional</td> <td></td> </tr> <tr> <td>142</td> <td>1,210</td> <td>242</td> <td>605</td> <td>Utility issue fee (or reissue)</td> <td></td> </tr> <tr> <td>143</td> <td>430</td> <td>243</td> <td>215</td> <td>Design issue fee</td> <td></td> </tr> <tr> <td>144</td> <td>580</td> <td>244</td> <td>290</td> <td>Plant issue fee</td> <td></td> </tr> <tr> <td>122</td> <td>130</td> <td>122</td> <td>130</td> <td>Petitions to the Commissioner</td> <td></td> </tr> <tr> <td>123</td> <td>50</td> <td>123</td> <td>50</td> <td>Petitions related to provisional applications</td> <td></td> </tr> <tr> <td>126</td> <td>240</td> <td>126</td> <td>240</td> <td>Submission of IDS</td> <td></td> </tr> <tr> <td>581</td> <td>40</td> <td>581</td> <td>40</td> <td>Recording each patent assignment per property (times number of properties)</td> <td></td> </tr> <tr> <td>146</td> <td>760</td> <td>246</td> <td>380</td> <td>Filing a submission after final rejection (37 CFR 1.129(a))</td> <td></td> </tr> <tr> <td>149</td> <td>760</td> <td>249</td> <td>380</td> <td>For each additional invention to be examined (37 CFR 1.129(b))</td> <td></td> </tr> <tr> <td colspan="4"></td> <td>Other _____</td> <td></td> </tr> <tr> <td colspan="4"></td> <td>Other _____</td> <td></td> </tr> <tr> <td colspan="4"></td> <td>*Reduced by Basic Filing Fee Paid</td> <td></td> </tr> <tr> <td colspan="4" style="text-align: right;">SUBTOTAL (2)</td> <td></td> <td>\$54.00</td> </tr> <tr> <td colspan="4" style="text-align: right;">SUBTOTAL (3)</td> <td></td> <td></td> </tr> </tbody> </table>				Large Entity		Small Entity		Fee Description	Fee Paid	Fee Code	Fee (\$)	Fee Code	Fee (\$)	105	130	205	65	Surcharge-late filing fee or oath		127	50	227	25	Surcharge-late provisional filing fee or cover sheet		139	130	139	130	Non-English specification		147	2,520	147	2,520	For filing a request for reexamination		112	920*	112	920*	Requesting publication of SIR prior to Examiner action		113	1,840*	113	1,840*	Requesting publication of SIR after Examiner action		115	110	215	55	Ext for reply within first month		116	380	216	190	Ext for reply within second mth		117	870	217	435	Ext for reply within third mth		118	1,360	218	680	Ext for reply within fourth mth		128	1,850	228	925	Ext for reply within fifth month		119	300	219	150	Notice of Appeal		120	300	220	150	Filing brief in support of appeal		121	260	221	130	Request for Oral Hearing		138	1,510	138	1,510	Petition to institute public use proceeding		140	110	240	55	Petition to revive-unavoidable		141	1,210	241	605	Petition to revive-unintentional		142	1,210	242	605	Utility issue fee (or reissue)		143	430	243	215	Design issue fee		144	580	244	290	Plant issue fee		122	130	122	130	Petitions to the Commissioner		123	50	123	50	Petitions related to provisional applications		126	240	126	240	Submission of IDS		581	40	581	40	Recording each patent assignment per property (times number of properties)		146	760	246	380	Filing a submission after final rejection (37 CFR 1.129(a))		149	760	249	380	For each additional invention to be examined (37 CFR 1.129(b))						Other _____						Other _____						*Reduced by Basic Filing Fee Paid		SUBTOTAL (2)					\$54.00	SUBTOTAL (3)					
		Large Entity		Small Entity				Fee Description	Fee Paid																																																																																																																																																																																																																																														
Fee Code	Fee (\$)	Fee Code	Fee (\$)																																																																																																																																																																																																																																																				
101	690	201	345	Utility filing fee	[690]																																																																																																																																																																																																																																																		
106	310	206	155	Design filing fee	[ ]																																																																																																																																																																																																																																																		
107	480	207	240	Plant filing fee	[ ]																																																																																																																																																																																																																																																		
108	690	208	345	Reissue filing fee	[ ]																																																																																																																																																																																																																																																		
114	150	214	75	Provisional filing fee	[ ]																																																																																																																																																																																																																																																		
SUBTOTAL (1)					\$690.00																																																																																																																																																																																																																																																		
Large Entity		Small Entity		Fee Description	Fee Paid																																																																																																																																																																																																																																																		
Fee Code	Fee (\$)	Fee Code	Fee (\$)																																																																																																																																																																																																																																																				
105	130	205	65	Surcharge-late filing fee or oath																																																																																																																																																																																																																																																			
127	50	227	25	Surcharge-late provisional filing fee or cover sheet																																																																																																																																																																																																																																																			
139	130	139	130	Non-English specification																																																																																																																																																																																																																																																			
147	2,520	147	2,520	For filing a request for reexamination																																																																																																																																																																																																																																																			
112	920*	112	920*	Requesting publication of SIR prior to Examiner action																																																																																																																																																																																																																																																			
113	1,840*	113	1,840*	Requesting publication of SIR after Examiner action																																																																																																																																																																																																																																																			
115	110	215	55	Ext for reply within first month																																																																																																																																																																																																																																																			
116	380	216	190	Ext for reply within second mth																																																																																																																																																																																																																																																			
117	870	217	435	Ext for reply within third mth																																																																																																																																																																																																																																																			
118	1,360	218	680	Ext for reply within fourth mth																																																																																																																																																																																																																																																			
128	1,850	228	925	Ext for reply within fifth month																																																																																																																																																																																																																																																			
119	300	219	150	Notice of Appeal																																																																																																																																																																																																																																																			
120	300	220	150	Filing brief in support of appeal																																																																																																																																																																																																																																																			
121	260	221	130	Request for Oral Hearing																																																																																																																																																																																																																																																			
138	1,510	138	1,510	Petition to institute public use proceeding																																																																																																																																																																																																																																																			
140	110	240	55	Petition to revive-unavoidable																																																																																																																																																																																																																																																			
141	1,210	241	605	Petition to revive-unintentional																																																																																																																																																																																																																																																			
142	1,210	242	605	Utility issue fee (or reissue)																																																																																																																																																																																																																																																			
143	430	243	215	Design issue fee																																																																																																																																																																																																																																																			
144	580	244	290	Plant issue fee																																																																																																																																																																																																																																																			
122	130	122	130	Petitions to the Commissioner																																																																																																																																																																																																																																																			
123	50	123	50	Petitions related to provisional applications																																																																																																																																																																																																																																																			
126	240	126	240	Submission of IDS																																																																																																																																																																																																																																																			
581	40	581	40	Recording each patent assignment per property (times number of properties)																																																																																																																																																																																																																																																			
146	760	246	380	Filing a submission after final rejection (37 CFR 1.129(a))																																																																																																																																																																																																																																																			
149	760	249	380	For each additional invention to be examined (37 CFR 1.129(b))																																																																																																																																																																																																																																																			
				Other _____																																																																																																																																																																																																																																																			
				Other _____																																																																																																																																																																																																																																																			
				*Reduced by Basic Filing Fee Paid																																																																																																																																																																																																																																																			
SUBTOTAL (2)					\$54.00																																																																																																																																																																																																																																																		
SUBTOTAL (3)																																																																																																																																																																																																																																																							
SUBMITTED BY		Complete (if applicable)																																																																																																																																																																																																																																																					
Typed or Printed Name		Charles M. Leedom, Jr.		Reg. Number	26,477																																																																																																																																																																																																																																																		
Signature		<i>Charles M. Leedom Jr.</i>		Date	9-26-00																																																																																																																																																																																																																																																		
				Deposit Account User ID	19-2380																																																																																																																																																																																																																																																		

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.